

VICTORIA L. FRANCIS
MARK STEGER SMITH
Assistant U.S. Attorney
U.S. Attorney's Office
2601 2nd Ave. North, Suite 3200
Billings, MT 59101
Phone: (406) 247-4633 – Victoria
(406) 247-4667 – Mark
Fax: (406) 657-6058
Email: victoria.francis@usdoj.gov
mark.smith3@usdoj.gov

ATTORNEYS FOR DEFENDANTS/
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

**AMERICAN CIVIL LIBERTIES
UNION, AMERICAN CIVIL
LIBERTIES UNION FOUNDATION,
and AMERICAN CIVIL LIBERTIES
UNION OF MONTANA
FOUNDATION, INC.,**

Plaintiffs,

vs.

**DEPARTMENT OF DEFENSE,
DEPARTMENT OF HOMELAND
SECURITY, DEPARTMENT OF
THE INTERIOR, and
DEPARTMENT OF JUSTICE,**

Defendants.

CV 18-154-M-DWM

STIPULATION TO DISMISSAL

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. Defendants have provided Plaintiffs with a final determination and documents responsive to Plaintiffs' request under the Freedom of Information Act (the "Request"). Therefore, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the parties hereby stipulate to the dismissal with prejudice of all claims in Plaintiffs' Complaint on the following terms.
2. Defendants agree to pay Plaintiffs the sum total of sixty thousand dollars (\$60,000.00) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiffs agree to accept as full payment of any attorneys' fees and costs Plaintiffs have incurred or will incur in this action for services performed up to the date of this Stipulation.
3. Plaintiffs release and discharge Defendants and the United States of America from any and all claims and causes of action that Plaintiffs asserted or could have asserted in this litigation arising out of the Request.
4. This payment does not constitute acknowledgment by Defendants that Plaintiffs are entitled to compensation for fees or costs, or are entitled to compensation at any particular rate, in connection with this matter.
5. Defendants agree to submit all necessary paperwork for the \$60,000.00 payment described in Para. 2 to the appropriate office within thirty (30) calendar

days after this Stipulation of Dismissal is filed with the U.S. District Court for the District of Montana, and after receiving all information from Plaintiffs necessary for preparing this paperwork. Defendants shall endeavor to deliver payment to Plaintiffs' counsel promptly thereafter. The parties request that the Court retain jurisdiction solely for the purposes of enforcing Para. 4.

6. This Stipulation contains the entire agreement between the parties, and no statement, representation, promise, or agreement, oral or otherwise, between the parties or their counsel that is not included herein shall have any force or effect.

DATED this 17th day of January, 2020.

KURT G. ALME

United States Attorney

/s/ Mark Steger Smith

Mark Steger Smith

Victoria L. Francis

Assistant U.S. Attorneys

Attorneys for Defendants

/s/ Emerson Sykes

Emerson Sykes*

Brett Max Kaufman*

AMERICAN CIVIL LIBERTIES

UNION FOUNDATION

125 Broad Street, 18th Floor

New York, NY 10004

*Admitted *Pro Hac Vice*

Alex Rate Lillian Alvernaz
AMERICAN CIVIL LIBERTIES UNION
OF MONTANA FOUNDATION,
INC.
P.O. Box 1968
Missoula, MT 59806
Attorneys for Plaintiffs